

In the Matter of:

1. Kentucky Power, a private corporation incorporated under the laws of Kentucky, engages in the distribution of electricity to the public, for compensation, for light, heat, power and other

uses, and is therefore a utility subject to the Commission's regulatory jurisdiction.

2. Kentucky Power constructs, operates, and maintains electric distribution and service lines throughout its service area in eastern Kentucky.

3. Commission Regulation 807 KAR 5:041, Section 3, requires electric utilities to maintain their plant and facilities in accordance with standards of the National Electrical Safety Code ("NESC") (1981 ed.).¹

4. Commission Regulation 807 KAR 5:041, Section 3, requires an electric utility to correct and repair those of its facilities which are at variance with NESC standards when it has actual notice of such facilities or when a reasonable person under similar circumstances would have discovered such facilities. This regulation further requires an electric utility to correct or repair those facilities within a reasonable time after their discovery.

5. NESC Rule 234C specifies the minimum clearances from buildings and other structures for overhead electric lines and conductors.

6. On or before December 13, 1985, Kentucky Power installed a 7200 volt overhead line and a secondary 1/0 lash conductor along

¹ Effective June 6, 1990, Commission Regulation 807 KAR 5:041, Section 3, requires electric utilities to maintain their plant and facilities in accordance with the Standards of the 1987 edition of the NESC. This revision does not affect the findings contained herein.

an electric utility easement off Highway 15 west of Hazard, Kentucky, and near Lost Creek, Kentucky. This site is presently known as Gregory Heavy Equipment Repair Garage.

7. Kentucky Power's field drawings dated December 13, 1985 and associated with the last work order on record at this location do not indicate the presence of any structure on that easement or under the span between Pole No. 102-118 and Pole No. 102-132.

8. Between December 13, 1985 and July 20, 1989, an outbuilding was constructed on this easement under the 7200 volt overhead line and secondary 1/0 lash conductor, more specifically, under the span between Pole Nos. 102-118 and 102-132.

9. Commission Regulation 807 KAR 5:006, Section 23(2), requires Kentucky Power to inspect the facilities in question at least once every two years.

10. In May 1986 and in September 1987, Kentucky Power employees Alger Combs and Densil Smith, respectively, inspected the facilities in question. Although deficiencies were noted in the general vicinity, none were noted for the spans between Pole Nos. 102-118 and 102-132.

11. On March 27, 1989, Kentucky Power employee Densil Smith again inspected the facilities in question. No deviations from or violations of Commission regulations were noted.

12. Kentucky Power complied with Commission Regulation 807 KAR 5:006, Section 23(2), in the conduct of its inspections of the facilities in question.

13. Before July 20, 1989, a metal chain link fence was erected on and around the premises of Gregory Heavy Equipment

Repair Garage. Following the accident on July 20, 1989, Kentucky Power employees discovered that these guy wires had been severed.

14. Between March 27, 1989 and July 20, 1989, Kentucky Power received no reports or complaints regarding the condition of the span between Pole Nos. 102-118 and 102-132.

15. Sometime after March 27, 1989, Pole No. 102-118 began to lean toward the outbuilding. This caused the span of 7200 volt overhead line and secondary 1/0 lash conductor between Pole Nos. 102-118 and 102-132 to sag and to be at variance with clearance standards.

16. On July 21, 1989, vertical clearance between Kentucky Power's 7200 volt overhead line and the outbuilding was 5 feet, 5.5 inches. No vertical clearance existed between the outbuilding and Kentucky Power's secondary 1/0 lash conductor. NESC Rule 234C required a minimum vertical clearance of 10 feet between the outbuilding and the 7200 volt overhead line and 3 feet between the outbuilding and the secondary 1/0 lash conductor.

17. Based on Kentucky Power's construction standards for conductor stringing, the clearance between the roof of the outbuilding and the 7200 volt overhead line would have been 10.71 feet and would have met NESC clearance standards had Pole No. 102-118 not been leaning.

18. Kentucky Power discourages the placement of distribution lines over buildings and structures. Where NESC clearance standards are not met because of the construction of buildings or structures under its lines, Kentucky Power's practice has been to relocate or raise these lines.

19. Kentucky Power first learned of its facilities' variance with NESC clearance standards on July 20, 1989 when the incident involving Johnny Minks occurred. Mr. Minks was injured when the 25 foot, 7 inch antenna which he was installing on the outbuilding came into contact with Kentucky Power's 7200 volt overhead line.

20. A reasonable person under similar circumstances would not have discovered these clearance defects prior to July 20, 1989.

21. On August 17, 1989, Kentucky Power removed the span between Pole Nos. 102-118 and 102-132 and rerouted the 7200 volt overhead line and the secondary 1/0 lash conductor to avoid crossing any structure on the premises of Gregory Heavy Equipment Repair Garage. Both lines presently comply with NESC standards.

22. Kentucky Power corrected and repaired its facilities within a reasonable time after discovering their clearance defect.

23. Kentucky Power complied with Commission Regulation 807 KAR 5:041, Section 3, in this instance and should not, therefore, be penalized.

24. SCB, a private corporation incorporated under the laws of Georgia, engages in the transmission over wire of messages by telephone for the public, for compensation, and is therefore a utility subject to the Commission's regulatory jurisdiction.

25. SCB installs, operates, and maintains telecommunications facilities throughout its service areas within Kentucky.

26. Commission Regulation 807 KAR 5:061, Section 2, requires telephone utilities to maintain their plant and facilities in accordance with the standards of the NESC (1981 ed.).²

27. Commission Regulation 807 KAR 5:061, Section 2, requires a telephone utility to correct and repair its facilities which are at variance with NESC standards when the utility has actual notice of such facilities or when a reasonable person under similar circumstances would have discovered such facilities. It further requires a telephone utility to correct or repair those facilities within a reasonable time after their discovery.

28. NESC Rule 234C specifies the minimum clearances from buildings and other structures for telecommunications conductors.

29. The utility easement which Kentucky Power holds over the Gregory Heavy Equipment Repair Garage grants to Kentucky Power the right to allow other utilities to attach their facilities to Kentucky Power's utility poles. Pursuant to this easement, SCB attached a telephone cable to these poles in 1976.

30. Prior to the construction of the outbuilding along this easement and under SCB's telephone cable, the telephone cable met NESC clearance standards. As a result of the outbuilding's construction, the SCB telephone cable was at variance with NESC clearance standards.

² Effective March 8, 1990, Commission Regulation 807 KAR 5:061 requires telephone utilities to maintain their plant and facilities in accordance with the standards of the 1987 edition of the NESC. This revision does not affect the findings contained herein.

31. The outbuilding was constructed under SCB's telephone cable without SCB's knowledge or approval.

32. SCB never received a request to relocate this telephone cable.

33. On or about June 21, 1989, Marcus Rose, a SCB installer, while responding to a request for service, discovered the clearance defect with the telephone cable over the outbuilding.

34. On or about July 7, 1989, Marcus Rose and Doug Starcher, a SCB engineer, inspected the area and issued a work order for repairs which included rerouting the telephone cable's aerial route.

35. On July 21, 1989, no vertical clearance existed between SCB's telephone cable and the outbuilding. NESC Rule 234C required a minimum vertical clearance of 3 feet.

36. On November 15, 1989, SCB completed the rerouting of its telephone cable. The telephone cable no longer overhangs the outbuilding and presently meets NESC clearance standards.

37. SCB failed to comply with Commission Regulation 807 KAR 5:061, Section 2, by failing to bring its facility into compliance with NESC standard within a reasonable time after discovering it was at variance with those standards.

38. For its failure to comply with Commission Regulation 807 KAR 5:061, Section 2, SCB should be assessed a penalty of \$1,000.

IT IS THEREFORE ORDERED that:

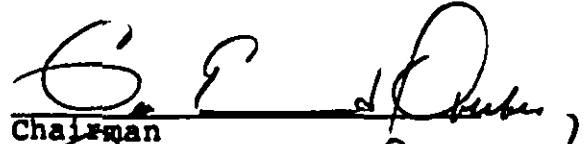
1. A penalty in the amount of \$1,000 is assessed against SCB for its failure to comply with Commission Regulation 807 KAR 5:061, Section 2.

2. SCB shall pay the assessed penalty within 20 days of the date of this Order by certified or cashier's check made payable to "Treasurer, Commonwealth of Kentucky." Said check shall be delivered to Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602.

3. This case is hereby closed and removed from the Commission's docket.

Done at Frankfort, Kentucky, this 1st day of August, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director